

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEONTAY JOHNSON, et al.,

Plaintiffs,

Case No. 13-cv-13672

Hon. Matthew F. Leitman

v.

ANTHONY WICKERSHAM, et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION (ECF #68)
AND GRANTING DEFENDANTS' MOTION TO DISMISS DEONTAY
JOHNSON AS PLAINTIFF IN THIS ACTION (ECF #56)

On August 27, 2013, Plaintiffs Deontay Johnson (“Johnson”), Ronald Whitney (“Whitney”), and Dorian Willis (“Willis”) filed a prisoner civil rights Complaint related to their incarceration at the Macomb County Jail. (*See* Compl., ECF #1.) On April 11, 2014, Johnson appeared for his previously-noticed deposition. According to Defendants, when Defendants attempted to question Johnson during the deposition about his criminal conviction history, Johnson refused to answer these questions and he prematurely terminated the deposition. (*See* ECF #37.)

On June 9, 2014, Defendants filed a motion to compel Johnson’s attendance at a continued deposition. (*See* the “Motion to Compel,” *id.*) Johnson did not

respond to the Motion to Compel, and on September 24, 2014, the Magistrate Judge granted the motion by written order. (*See* ECF #46.) In this Order, the Magistrate Judge expressly warned Johnson that his “failure to appear for his re-deposition may subject him to sanctions, including dismissal of his complaint.” (*Id.* at 2, Pg. ID 241.)

Defendants served Johnson with a notice of the continued deposition on October 2, 2014. (*See* ECF #56-2.) The continued deposition was scheduled for October 22, 2014. (*See id.*) According to Defendants, Johnson did not appear for the continued deposition.

Defendants have now moved to dismiss Johnson as a Plaintiff in this action due to his failure to appear for the continued deposition. (*See* the “Motion to Dismiss,” ECF #56.) Johnson did not timely respond to the Motion to Dismiss. Thus, on December 19, 2014, the Magistrate Judge entered an Order requiring Johnson to file a response to the Motion to Dismiss “on or before January 13, 2015.” (*See* ECF #61.) The Magistrate Judge further told Johnson that “[h]is failure to [file a response to the Motion to Dismiss] will result in a recommendation that his complaint be dismissed.” (*Id.*)

Johnson did not file a response to the Motion to Dismiss as the Magistrate Judge ordered. Accordingly, and as the Magistrate Judge expressly warned Johnson would happen, the Magistrate Judge has submitted a Report and

Recommendation to the Court that recommends that Defendants' Motion to Dismiss be granted and Johnson be dismissed as a Plaintiff in this action. (*See* the "R&R," ECF #68.) Johnson was informed in the R&R that if he wished to object to the recommendation, he needed to file specific objections with the Court within fourteen days. (*See id.* at 4-5, Pg. ID 344-345.)

Johnson has not filed any objections to the R&R. The failure to file objections to a Report and Recommendation waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). The Court has nevertheless reviewed the R&R and agrees with the findings and conclusions of the Magistrate Judge that Johnson should be dismissed as a Plaintiff in this action.

Therefore, **IT IS HEREBY ORDERED** that the R&R (ECF #46) is **ADOPTED** as the Opinion of this Court. **IT IS FURTHER ORDERED**, for the reasons stated in the R&R, that Defendants' Motion to Dismiss Deontay Johnson as Plaintiff (ECF #56) is **GRANTED**.

Dated: February 23, 2015

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 23, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(313) 234-5113